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THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Eric R. CERNY et al.

Serial No.: **10/541,346**

Filed: **July 5, 2005**

Confirmation No.: **8966**

For: **COTTON EVENT MON 88913 AND
COMPOSITIONS AND METHODS
FOR DETECTION THEREOF**

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§ Group Art Unit: **1638**
§
§ Examiner: **David H. Kruse**
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§ Atty. Dkt. No.: **11899.0239.PCUS00**
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RESPONSE TO OFFICE ACTION MAILED ON JANUARY 29, 2007

CERTIFICATE OF MAILING 37 C.F.R. 1.8	
I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date below:	
<i>June 5, 2007</i> Date	<i>Bonnie R. Smith</i> Signature

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In response to the Office Action dated January 29, 2007, having a two-month period for reply expiring March 29, 2007, Applicant submits the following remarks. Concurrently filed with this response is a Declaration under 37 CFR § 1.132, an Information Disclosure Statement under 37 CFR § 1.97(c), form PTO-1449, one disclosed document ("Compliance Packet"), and a request for a three-month extension of time for responding to the Office Action by June 29, 2007. Further consideration of the application in view of this response is respectfully requested.

REMARKS

Request for Information under 37 CFR § 1.105

Examiner requests information pertinent to the alleged use of the claimed invention in the United States and abroad more than one year before the February 12, 2003 priority date for the current application (i.e. before February 12, 2002). February 12, 2003 is the filing date for U.S. Application S.N. 60/447,184. Specifically requested is information regarding sales activity and/or public distribution of the claimed transgenic cotton plants and seeds which contain the MON 88913 genetic event. Also requested is information regarding restrictions placed on invention use, where the invention was distributed and by whom, and the relationship between any distributor and Applicant/Assignee.

In making the above request, Examiner cites an article by McCloskey et al. (*Arizona Cotton Report*; May, 2004) which documents the resistance of Roundup Ready Flex Cotton (RRFC) to glyphosate herbicide. Applicant notes for clarity that this report does not refer to the MON 88913 event directly, but rather refers to the event's previous designation, 9910.

In order to comply with Examiner's requirement for information, Applicant supplies herewith a Declaration by Richard D. Voth regarding the use and sale of the claimed invention before the current application's priority date. Also supplied is a copy of the Regulatory Compliance Packet provided to the authors of the cited report which set the guidelines for testing cotton plants carrying certain genetic events such as MON 88913. This packet is representative of all the Regulatory Compliance Packets provided to the other field study groups listed in part 5 of the Declaration (page 6).

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Apart from the extension fee, no other fees are believed to be due in relation to filing this document and the accompanying Declaration and Information Disclosure Statement; however, the Commissioner is hereby authorized to deduct any underpayment of fees from Howrey LLP Deposit Account 08-3038/11899.0239.PCUS00.

Respectfully submitted,



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Date: June 5, 2007